

REMARKS

The application has been amended and is believed to be in condition for allowance.

The previous unentered amendment of December 17, 2208 shall remain unentered.

The previous pending claims have been replaced with new claims that recite the same invention.

Rejections Under 35 USC 112

The Official Action rejected claims 1-4 and 6-21 under section 112, second paragraph, as being indefinite with functional or operational language. The new claims have been drafted to avoid the basis for this rejection. Withdrawal of the rejection is solicited.

Claim 7 is rejected under section 101 as being directed to non-statutory subject matter.

The new claims have been drafted to avoid the basis for this rejection. Withdrawal of the rejection is solicited.

Rejections Under 35 USC 103

Claims 1-4, 6-9, 11-18, 20 and 21 were rejected as obvious over RIVARD 6,554,831 in view of LAHILLE 5,380,325 and MIRKOVIC 5,254,118.

Claims 10 and 19 were rejected as obvious over RIVARD in view of LAHILLE and MIRKOVIC and further in view of FORTIN WO 03/007828 of which US 2005/0165396 is the nation stage.

Independent claim 22 is believed patentable. The dependent claims are believed patentable at least for depending from an patentable independent claim.

RIVARD does teach a polyaxial anchoring member comprising i) a proximal threaded stud and ii) a threaded base portion (6) enabling bony anchoring, the proximal stud articulated with respect to the base portion.

RIVARD does not teach, and the other references also do not teach that the threaded base portion (6) comprising i) a threaded portion for bony anchoring, ii) a distal proximal curved wall (17) with a hemispherical proximal form defining a cavity (16), and iii) a collar (18) located between the curved wall (17) and the threaded portion at a location suitable for abutting against a pedicula. See application Figures 1 and 8-9.

RIVARD does not teach, and the other references also do not teach that the proximal stud (5) comprising i) a threaded portion (10), and ii) a distal head (11), the distal head (11) retained in the cavity (16) by the curved wall (17). Again, see application Figures 1 and 8-9. Compare to RIVARD Figure 2.

RIVARD does teach the connecting part comprising i) a rounded section connected to ii) two parallel lateral wings.

RIVARD does not teach, and the other references also do not teach that a circular wall (27) delineating an internal concave spherical face (28) mating with the curved wall (17) of the base portion (6). See Figures 1 and 8-9.

Further, RIVARD does not teach, and the other references also do not teach that the circular wall (27) delineating the internal concave spherical face (28) bears against the curved wall (17) of the base portion (6), an amount of multidirectional backlash of the proximal stud (5) being limited by a lowermost surface of the circular wall (27) abutting against an upper surface of the collar (18). See application Figures 4-5.

Thus, claim 22 is non-obvious.

RIVARD does not teach, and the other references also do not teach such a structure and further the circular wall (27) is deformable to dampen movement of the proximal stud (5) with the lowermost surface of the circular wall (27) abutting against the upper surface of the collar (18).

RIVARD does not teach, and the other references also do not teach such a structure and further that the circular wall (27) is comprised from i) a deformable part (31) located between a lower one of the two wings (21) and the curved wall (17) of the base portion (6), and ii) a washer (32) located between the lower one of the two wings (21) and the deformable part, the amount of multidirectional backlash of the proximal stud (5) being limited by a lowermost surface of the washer (32) abutting against the upper surface of the collar (18). See Figures 8-9. Thus, claim 24 is non-obvious.

RIVARD does not teach, and the other references also do not teach such a structure and further that such washer (32) is screwed onto the threaded portion (10) of the proximal stud (5). See Figure 8. Thus, claim 25 is non-obvious.

RIVARD does not teach, and the other references also do not teach such a structure and further the proximal stud (5) further comprises a collar (12) forming an axial stop surface, and the connecting part (3) further comprises a circular cavity (26) shaped to engage with the collar (12) of the proximal stud (5), the circular wall (27) integral with the circular cavity (26), and the circular cavity (26) is engaged with the collar (12) of the proximal stud (5). See Figures 1-5. Thus, claim 26 is non-obvious.

Therefore, the specific structure recited is not obvious in view of these references. Allowance of all the claims is solicited.

This amendment is believed to be fully responsive and to put the case in condition for allowance. An early and favorable action on the merits is earnestly requested.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any

overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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